

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14480 of Armand Leo Dumas, as amended, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot occupancy requirements (Sub-section 3303.1), the floor area ratio requirements (Sub-section 3302.1) and the parking requirements (Sub-section 7202.1) for a proposed addition to a single family dwelling and to convert to a gallery and flat in an D/R-5-B District at premises rear 1712 21st Street, N.W. (Square 65, lots 5, 6, and 18).

HEARING DATE: September 24, 1986
DECISION DATE: December 3, 1986

FINDINGS OF FACT:

1. As a preliminary matter at the public hearing of September 24, 1986, a representative of the Residential Action Coalition and the owner of 2118 Florida Avenue, N.W. indicated that the advertisement and posting of the subject case incorrectly represented that the property in question was 2118 Florida Avenue, N.W. Neither party opposed proceeding with the public hearing as scheduled. The Chairperson ruled that the public hearing would proceed as scheduled. The Board addresses the question of the proper address of the site later in this Order.
2. The property is located on the west side of 21st Street north of R Street and is known as premises 1712 21st Street, N.W. It is zoned D/R-5-B.
3. The lot is an irregularly shaped through lot which extends through the square to Florida Avenue. The site has a lot area of approximately 2,592 square feet with a frontage of 36.33 feet along 21st Street and 19.91 feet along Florida Avenue.
4. The site consists of three record lots which have been combined into a single taxation and assessment lot number 805. The applicant is currently seeking to subdivide the three existing record lots into one lot of record.
5. The site is currently improved with a three story brick row structure which is currently used as a single family dwelling and art gallery.

6. The applicant proposes to construct a three-story addition at the rear of the property which will be attached to the existing structure by a second-story level combination roof and skylight enclosure over the existing patio area.

7. The proposed addition will house gallery space on the first floor accessible directly from Florida Avenue and two stories of living space above which will be directly accessible from Florida Avenue as well as from the main residence which fronts on 21st Street.

8. The Zoning Regulations permit a maximum lot occupancy of 60 percent or 1,555.2 square feet. The applicant proposes a lot occupancy of 2,487.16 square feet. A variance from the lot occupancy requirements of 931.96 square feet or 59.92 percent is required.

9. The Zoning Regulations permit a maximum floor area ratio of 1.8 or 4,665 square feet. The applicant proposes a floor area ratio of 6,492.3 square feet. A variance from the floor area ratio requirements of 1,826.7 square feet or 39.15 percent is required.

10. The Zoning Regulations require the provision of one on-site parking space per dwelling unit. The proposed conversion from a single family residence to a flat, therefore, requires that two on-site parking spaces be provided. The applicant proposes to provide one parking space on site. A variance of one parking space or 50 percent is required.

11. The surrounding neighborhood is primarily developed with two- and three-story row structures, some of which have been converted to apartment use. There is a small, nonconforming dress shop located adjacent to the subject property at 2120 Florida Avenue.

12. The proposed addition is intended to provide additional living space for the applicant's growing family and will allow for expansion of the existing first floor art gallery.

13. The applicant testified that the design of the facade of the addition fronting on Florida Avenue is in keeping with adjacent structures and has received preliminary approval from the Historic Preservation Review Board.

14. The proposed addition will displace two parking spaces which are presently located in the rear yard of the subject property. The applicant testified that the elimination of these parking spaces will be mitigated by the

addition of two on-street parking spaces to the curbside parking inventory in the immediate neighborhood.

15. The applicant did not present any evidence that any alternative design proposals to meet his needs in conformance with the zoning requirements had been explored.

16. By representative at the public hearing and letter dated September 16, 1986, Advisory Neighborhood Commission 2B opposed the application based on the following:

- a. The application was improperly advertised as 2118 Florida Avenue.
- b. The proposed addition would adversely affect light and air to adjoining properties.
- c. A number of mature trees would be destroyed during construction of the proposed addition.
- d. The applicant failed to show adequate "hardship" for the relief requested.

17. The Dupont Circle Citizens Association, the Residential Action Coalition, the Farnsboro Condominium Association, and several area residents opposed the granting of the application in writing and by representatives at the public hearing. The opposition was generally based on the following:

- a. The proposed addition is too large and will block the light, air and view presently available to adjoining properties.
- b. The addition of another residential unit and the enlargement of the existing art gallery will increase the amount of traffic and the demand for on-street parking in the area.
- c. The elimination of the existing parking spaces to the rear of the site will further increase the demand for on-street parking in the area.

18. The Board left the record open to receive a report from the Office of Planning. The Board requested the Office of Planning to address issues relative to the correct address and lot numbers for the subject site, as well as any recommendations from the Historic Preservation Review Board.

19. By memorandum dated November 4, 1986, the Office of Planning reported as follows:

- a. The correct address of the subject property is

1712 21st Street. The 2118 Florida Avenue address was incorrectly applied to the site during the building permit process.

b. The subject site consists of record lots 5, 6 and 18, which are consolidated for tax purposes into a single taxation and assessment lot 805. An application to subdivide the three existing record lots into one lot of record is pending.

c. The recommendations of the Historic Preservation Review Board (HPRB) addressed the facade of the proposed addition along Florida Avenue only. The HPRB recommendations did not add, create or relate in any way to the relief requested from the Board.

19. The Board amended the application to reflect the correct address and lot numbers as identified by the Office of Planning.

20. As to the merits of the case, the Office of Planning recommended that the application be denied. The Office of Planning was of the opinion that there is no extraordinary or exceptional condition of the property. The Office of Planning was further of the opinion that, given the density of the proposed addition, one parking space would not be sufficient to accommodate the demand generated by a combined art gallery and flat.

21. The Board notes that the applicant bears the burden of proof in any application for zoning relief before the Board. The Board finds that the applicant presented no evidence of an exceptional or extraordinary condition of the property which creates a practical difficulty related to the use of the property under the applicable provisions of the Zoning Regulations. The required relief, therefore, can not be granted based on the evidence presented to the Board by the applicant. Accordingly, the Board will not address the specific issues and concerns of the Advisory Neighborhood Commission and the opposition in this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking area variances, the granting of which require a showing of an exceptional or extraordinary situation or condition of the property which causes a practical difficulty upon the owner. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan.


The Board concludes that the applicant has not met the required burden of proof. The Board further concludes that the site as currently developed meets all the applicable standards of the Zoning Regulations. The granting of this requested relief would result in the creation of a structure which does not comply with the Zoning Regulations for which there is no basis. The Board concludes that the applicant's arguments based on the need for additional living space for the family are personal and are not grounds to support a practical difficulty which must be inherent in the site.

The Board further concludes that the variance relief can not be granted without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 5-0 (William F. McIntosh, Paula L. Jewell,
Charles R. Norris, and Carrie L. Thornhill
to deny, John G. Parsons to deny by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: SEP 30 1987

UNDER 11 DCMR 3103.1, "NOT DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."